THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.4131 of 2005

20.7.2007

Between:

Pilla Uday Bhaskar, S/o.Sri Krishnamurty

… Petitioner

AND

The District Collector, Visakhapatnam
And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.4131 of 2005

ORDER:

This writ petition is filed seeking a writ of Mandamus declaring the action of the respondents in interfering with possession of the land admeasuring Acs.5.14 in survey Nos.37 situated at Rushikonda village in Visakhapatnam District (subject land, for brevity) as illegal and arbitrary.

It is the case of the petitioner that he was assigned the subject land, that he developed the land and planted cashew nut and other fruit bearing trees. When there was threat of dispossession, he filed W.P.No.18187 of 1989 and the same was disposed of by this Court on 29.1.1997 directing the respondents to follow due process of law if the petitioner has to be evicted from the land. In spite of the same, third respondent passed orders on 21.11.1997 directing the petitioner to vacate the subject land aggrieved by which petitioner filed the appeal, which is pending before the Revenue Divisional Officer (RDO). At that stage, third respondent again issued notice dated 10.7.1997 asking the petitioner to show cause as to why he should not evicted from the subject land. The petitioner then made representation dated 18.12.1997 to the RDO, which is also pending. Apprehending that the authorities may dispossess the petitioner without considering the appeal and the representation dated 18.12.1997, the present writ petition is filed.

This Court while admitting the writ petition, on 03.3.2005, granted interim order to the effect that the nature of the land shall not be altered. The District Collector, the Revenue Divisional Officer (RDO) and the MRO moved WVMP No.4131 of 2005 for vacating the interim order. It is stated that the subject land is classified as Assessed Waste Dry (AWD) and was assigned to one P.Krishna Murthy and that the assignee did not bring the land under cultivation. Therefore, a show

cause notice was issued to the original assignee. In the enquiry, it is noticed that the petitioner has got executed irrevocable General Power of Attorney from the son of original assignee. The original assignee violated the conditions in BSO 15(12) as well as the provisions of the Act. The petitioner filed W.P.No.18187 of 1989, which was dismissed by this Court on 17.10.1997 directing dispossession of petitioner, if any, in accordance with law. In pursuance of which, notice dated 31.3.1997 was issued to the petitioner. One E.Janaki Ramayya, to whom the petitioner transferred the property, submitted explanation on 07.7.1997. The assignment was cancelled by order dated 22.11.1997 and the subject land was resumed to the Government. Pendency of appeal before the RDO is denied.

Learned Counsel for the petitioner submits that against the order of the MRO dated 22.11.1997, petitioner is allegedly filed appeal before the RDO, but the same is denied in the counter. However, pendency of representation dated 18.12.1997 is neither referred nor denied by the respondents, in the counter affidavit. Therefore, this Court is not inclined to express any opinion on the merits of the case or the other legal contentions raised by the learned Counsel for the petitioners. There is a dispute regarding possession of the land. When the matter was initially heard on 03.3.2005, learned Government Pleader for Revenue submitted that the land was resumed. In paragraph 8 of the counter affidavit, it is averred that even before filing of the writ petition, the land is in possession of the Government. Therefore, this Court is of considered opinion that the order passed by this Court on 03.3.2005 to the effect that the nature of the land shall not be altered, shall continue till the matter is disposed of. The RDO may dispose of the appeal/representation filed by the petitioner within a period of eight weeks from the date of receipt of a copy of this order. The observations made herein above would hold good with regard to the nature of the land or its possession thereof.

The writ petition, with the above observations and directions, is accordingly disposed of. No costs.

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(**V.V.S.RAO,J**)

July 20, 2007.
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